

From: Bear Wilner-Nugent <bwnlaw@gmail.com>
Subject: **Re: A few questions**
Date: September 23, 2015 5:25:47 PM EDT
To: "dbooth@boothsweet.com" <dbooth@boothsweet.com>

That's fine.

Bear Wilner-Nugent, Counselor and Attorney at Law LLC
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On Wed, Sep 23, 2015 at 9:45 AM, dbooth@boothsweet.com <dbooth@boothsweet.com> wrote:

Bear,

I agree that the Ninth Circuit should be notified, though I'd also prefer to wait until I'm formally engaged. Presumably Mr. Plunkett will move to be substituted in as appellant. FRAP 43(a)(1) doesn't have a time limit for substitution, though it should happen within a reasonable time. With one exception in 2013, the Ninth Circuit hasn't heard oral arguments in Portland between November and March since 2009, so waiting another few weeks to give the Ninth Circuit notice shouldn't affect the hearing schedule. Your thoughts?

Dan Booth
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On Sep 22, 2015, at 8:25 PM, Bear Wilner-Nugent wrote:

Thank you, Dan. I will hold off for the time being. I do think, however, that we should advise the Ninth Circuit that Ms. Plunkett has died. What do you think? They have now scheduled the November oral arguments and we still aren't on the list, by the way.

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On Tue, Sep 22, 2015 at 4:00 PM, dbooth@boothsweet.com <dbooth@boothsweet.com> wrote:

Bear,

I appreciate your sense of urgency. I have a bit more information that may make it worth briefly postponing any motion for substitution, in hopes that the motion can be more quickly resolved.

It's my understanding that no personal representative has yet been named. I believe Nóirín's father Patrick Plunkett will be the personal representative of the estate, and I presume that your motion would be to appoint him, but please let me know if you had other intentions. Though I have not yet been retained by him, I expect I will be.

Mr. Plunkett is out of the country and out of phone and email contact until October 5. When he returns to Ireland I expect to resolve my engagement in short order. If you'll postpone your motion until October 14, we should then be in a better position to let you know who will be administering the estate, whether we can accept service, and whether the motion might be assented-to or joint. Please let me know if that's acceptable. We filed and served the statement noting Nóirín's death on July 31 so if my math is correct, you have until October 29 to move for substitution pursuant to Rule 25(a)(1).

Many thanks.

Sincerely,
Dan

Dan Booth

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On Sep 21, 2015, at 3:48 PM, Bear Wilner-Nugent wrote:

Thank you, sir. Please be aware that, if no personal representative has been selected by September 28, I will at that point move the court to appoint one.

Respectfully,

Bear

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On Mon, Sep 21, 2015 at 11:38 AM, dbooth@boothsweet.com <dbooth@boothsweet.com> wrote:

Bear,

I'm not administering Ms. Plunkett's estate. I'll let you know if it turns out that I will be representing the estate's representative for purposes of Mr. Schwern's lawsuit.

Best,
Dan

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On Sep 18, 2015, at 7:03 PM, Bear Wilner-Nugent wrote:

Sir, has it become clear yet whether you are going to be representing Ms. Plunkett's estate?

If not, who will be?

If so, will you agree to accept service of any documents (e.g. an amended complaint) that any source of law might otherwise require me to serve on the defendant personally?

Is Ms. Plunkett's father going to serve as the personal representative of her estate (as we would call it in Oregon -- you might refer to this role as an executor or using some other term in Massachusetts)?

If not, who is?

Many thanks,

Bear

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